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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re

Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations  
(Half Way and Ozark, Missouri)

MM Docket No. 93-186  
RM-8258

To: The Chief, Allocations Branch  
Mass Media Bureau

**COMMENT AND COUNTERPROPOSAL**

Lake Broadcasting ("LB") herewith comments on and submits a counterproposal to the Notice of Proposed Rule Making ("NPRM"), DA 93-729 (released July 13, 1993). LB will show that the Commission should not adopt the FM Table amendments suggested by the NPRM and the underlying Joint Petition for Rule Making. Rather, the FCC should adopt LB's counterproposal and allot FM Channel 224A at Diamond City, Arkansas as that community's first local service. In support whereof, the following is shown.

1. Ozark Mountain Broadcasting, Inc. and KYOO Broadcasting Company ("Petitioners") filed a Joint Petition for Rule Making with the Commission seeking to amend the Table of Allotments as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Half Way, Missouri	226A	256A
Ozark, Missouri	225A	225C2

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In response to Petitioner's Joint Petition, the Commission issued the NPRM seeking comments on the proposal.

2. LB hereby advances a counterproposal to that advanced by Petitioners, and requests that the Commission amend the FM Table of Allotments as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Diamond City, Arkansas	---	224A

3. As authorized, Petitioners provide Half Way and Ozark with a local service, respectively. By contrast, Diamond City, Arkansas lacks any local service. LB proposes to redress that unfair distribution of transmission service by allocating Channel 224A to Diamond City. This change will clearly serve the public interest.

4. Under Commission policy, a proposed allotment must advance the goals of Section 307(b) of the Communications Act of 1934, as amended. The FCC judges allotment proposals by the following priorities:

- (1) first aural service;
- (2) second aural service;
- (3) first local service; and
- (4) other public-interest factors.

Priorities (2) and (3) have equal rank. Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

5. Measured against these standards, LB's counterproposal would clearly result in a preferential arrangement of FM

allotments. Half Way and Ozark, Missouri each currently enjoys one local service, respectively, but Diamond City has none. Also, upon information and belief, there are approximately 15 1 mV/m signals reaching Ozark, and at least half of those are 3.16 mV/m signals. Diamond City has demographic attributes that justify a first local service. Diamond City's incorporated status constitutes prima facie evidence that the community warrants a first local service. Pierce, Texas et al., 8 FCC Rcd 3528, 3530 (1993); Revision of FM Assignment Policies and Procedures, 90 FCC 2d at 101.

6. As is shown in the attached Statement of James D. Sadler, Technical Consultant for LB, while Diamond City has a relatively modest population of 601 persons, Channel 224A can be assigned without a site restriction, while meeting the required minimum distance separations with respect to all existing and proposed facilities and assignments. Moreover, assuming uniform terrain, the 60 dBu (1 mV/m) coverage contour will provide new service to an area of 2,516 square kilometers containing 14,103 persons.

7. Measured against these standards, LB's counterproposal would clearly result in a preferential arrangement of FM allotments. Upon adoption of LB's proposal, Half Way and Ozark would each still enjoy several local services, including KZPF(FM) and KYOO-FM. At the same time, Diamond City, an incorporated city with a full range of civic attributes (including fire and

police departments, city council and chamber of commerce), would gain a first local service.

8. LB's Diamond City proposal (a Priority-3 allotment) outranks the Petitioners' proposal (a Priority-4 allotment). As such, grant of LB's counterproposal represents a preferred use of the spectrum.

9. LB intends, if the Commission amends the FM Table in the way LB requests herein, to promptly apply for a construction permit specifying operation of a new FM station on Channel 224A at Diamond City. Upon grant of that application, LB intends to construct, place into operation, and seek a covering license for the new facility.

For the reasons stated above, the Commission must not adopt the proposal set forth in the NPRM. Rather, the Commission must allocate Channel 224A at Diamond City, Arkansas. Adopting LB's counterproposal will clearly serve the public interest.

Respectfully submitted,

LAKE BROADCASTING

By: 

5930 L.B.J.  
Suite 400  
Dallas, Texas 75240

Date: September 2, 1993

***CARL T. JONES***  
***CORPORATION***

**STATEMENT OF JAMES D. SADLER  
IN SUPPORT OF COMMENT  
AND COUNTERPROPOSAL  
MM DOCKET NO. 93-186**

**Proponent: Lake Broadcasting**

I am a Technical Consultant, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia.

This office has been authorized by Lake Broadcasting to prepare this statement and associated exhibit in support of Comment and Counterproposal to MM Docket No. 93-186. Lake Broadcasting requests amendment of the FM Table of Allotments, Section 73.202(b) of the FCC Rules, in the following manner:

	<u>Present</u>	<u>Proposed</u>
Diamond City, Arkansas	---	224A

The allotment of Channel 224A to Diamond City, Arkansas, would provide the city with its first local service. As shown in the 1990 Census, Diamond City is located in Boone County and has a population of 601 persons. Channel 224A can be assigned to Diamond City without a site restriction at the geographic coordinates for Diamond City as indicated by the National Mapping Division, U.S. Geological Survey.

Figure 1, herein, is an allocation study performed on channel 224A at Diamond City to ensure the allotment would meet the required minimum distance separations with

STATEMENT OF JAMES D. SADLER  
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respect to all existing and proposed facilities and assignments. The geographic coordinates used in the study are: 36° 27' 52" North Latitude; 92° 55' 12" West Longitude.

From the proposed reference site, the maximum class A station can easily provide 70 dBu (3.16 mV/m) service to all of Diamond City. In addition, assuming uniform terrain, the 60 dBu (1 mV/m) coverage contour will provide new service to an area of 2,516 square kilometers containing 14,103 persons.

The above statement and associated exhibit were prepared by me or under my direct supervision and are believed to be true and correct.

DATED: August 30, 1993


  
James D. Sadler

FIGURE 1

ALLOCATION STUDY  
CHANNEL 224A DIAMOND CITY, ARKANSAS


REFERENCE COORDINATES:

36° 27' 52" NORTH LATITUDE  
92° 55' 12" WEST LONGITUDE

<u>CHANNEL</u>	<u>STATUS</u>	<u>STATION OR ALLOTMENT</u>	<u>SEPARATION (KM)</u>	
			<u>REQUIRED</u>	<u>ACTUAL</u>
222A	LIC	KKOZ-FM, Ava, MO	31	56.8
223C1	LIC	KSYN, Joplin, MO	133	160.0
224A	LIC	KLYR-FM, Clarksville, AR	115	121.3
225A	CP	KZPF, Ozark, MO	72	72.2
225A	LIC	KFAY-FM, Huntsville, AR	72	74.0
226C1	LIC	KZLE, Batesville, AR	75	124.3
227C1	APP	KEZE, Seligman, MO	75	112.4

VERIFICATION

I, John Borders, certify that I have read the foregoing  
Comment and Counterproposal; that to the best of my knowledge,  
information and belief there is good ground to support it; and  
that it is not interposed for delay.

  
John Borders  
d/b/a Lake Broadcasting

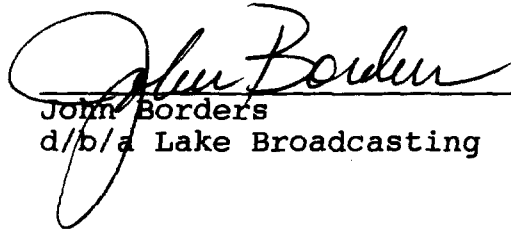
Dated: September 2, 1993



**CERTIFICATE OF SERVICE**

I, John Borders, d/b/a Lake Broadcasting, hereby certify that I have this 2nd day of September, 1993, mailed by first class United States mail, postage prepaid, copies of the foregoing "COMMENT AND COUNTERPROPOSAL" to the following:

William J. Pennington, III  
P.O. Box 2506  
Pawleys Island, SC 29585

  
John Borders  
d/b/a Lake Broadcasting